

Amendment No. 1 to SB0367

**Watson
Signature of Sponsor**

AMEND Senate Bill No. 367*

House Bill No. 523

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following as a new section:

(a) This section shall be known and may be cited as the "Proton Therapy Access Act."

(b) As used in this section:

(1) "Aggregate amount" means the total amount paid under the state group insurance program for the applicable radiation treatment delivery CPT code to deliver a biological effective dose;

(2) "Biological effective dose" means the total, prescribed radiation dose delivered in a course of radiation therapy treatments to induce tumor cell death;

(3) "CPT code" means the unique numerical designations established by the American Medical Association for various medical, surgical, and diagnostic services used in billing healthcare services;

(4) "Eligible patient" means a patient who is prescribed proton therapy for the treatment of cancer who otherwise would have been prescribed a course of IMRT routinely covered by the state group insurance program;

(5) "Hypofractionated proton therapy protocol" means a cancer treatment protocol that involves the delivery of fewer, larger treatment doses with proton therapy to deliver the same biological effective dose and achieve the same curative effect as x-ray radiation therapy delivered in smaller treatment doses over an extended period of time;

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(6) "Intensity modulated radiation therapy" or "IMRT" means a type of conformal radiation therapy that delivers x-ray radiation beams of different intensities from many angles for the treatment of tumors;

(7) "Proton therapy" means the advanced form of radiation therapy that utilizes protons as an alternative radiation delivery method for the treatment of tumors;

(8) "Radiation therapy" means the delivery of a biological effective dose with proton therapy, IMRT, brachytherapy, stereotactic body radiation therapy, three-dimensional conformal radiation therapy, or other forms of therapy using radiation;

(9) "Registry" means an organized system that uses observational study methods to collect uniform clinical data to evaluate specified outcomes for a population defined by a particular disease and is compliant with the principles established by the U.S. department of health and human services through their Agency for Healthcare Research and Quality's Registries for Evaluating Patient Outcomes: A User's Guide – Third Edition;

(10) "State group insurance program" means health insurance provided under title 8, chapter 27; and

(11) "Treatment dose" means the amount of radiation delivered in a single treatment or fraction of radiation therapy.

(c) The state group insurance program shall cover a physician prescribed hypofractionated proton therapy protocol to deliver a biological effective dose by paying

the same aggregate amount as would be paid for the delivery of the same biological effective dose with IMRT for the same indication if the following conditions are satisfied:

(1) Coverage is provided to an eligible patient who is being treated as part of a clinical trial or registry; and

(2) The radiation oncologist prescribing the hypofractionated proton therapy protocol is board certified or board eligible in the specialty of radiation oncology.

(d) If coverage of hypofractionated proton therapy protocol is required pursuant to subsection (c), then:

(1) The aggregate amount shall be equal to the average cost actually paid by the state group insurance program for an entire course of IMRT treatment required to deliver the prescribed biological effective dose for the particular indication. For purposes of this subdivision (d)(1), aggregate amounts shall be established for the various disease indications such as breast, prostate, lung, head and neck, and gastrointestinal by reference to amounts paid for a course of IMRT treatment for each of those indications under the state group insurance program;

(2) The amount that the state group insurance program must reimburse for hypofractionated proton therapy shall be paid in a single payment equal to the aggregate amount as determined pursuant to this subsection (d); and

(3) Coverage shall be subject to annual deductible and co-insurance established for radiation therapy and other similar benefits within the policy or contract of insurance. The annual deductible and co-insurance for any radiation therapy delivery method permitted by this section shall be no greater than the annual deductible and co-insurance established for all other similar benefits within a policy or contract of insurance.

(e) Notwithstanding any other provision of this section to the contrary, the amount:

(1) Reimbursed for hypofractionated proton therapy treatment must not exceed the average amount paid by the state group insurance program for a course of IMRT treatment to deliver the prescribed biological effective dose for the same disease site; and

(2) Chargeable to or payable by an eligible patient for a covered course of hypofractionated proton therapy shall not exceed the amount that would otherwise be chargeable to or payable by the eligible patient for a course of IMRT that is covered by the state group insurance program for the delivery of the same biological effective dose.

(f) Notwithstanding § 56-7-1005, this section applies only to the state group insurance program.

(g) This section supplements the requirements of 42 U.S.C. § 300gg-8.

SECTION 2. This act shall take effect January 1, 2018, the public welfare requiring it.